

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

ERIC A. JOHNSON,	:	
	:	
Plaintiff,	:	
v.	:	CIVIL ACTION
	:	FILE NO. _____
CITY OF CHATTAHOOCHEE	:	
HILLS, GEORGIA; JAMES D.	:	
MELTON; and SIDNEY A.	:	
BROWN,	:	
	:	(State Court Civil Action
Defendants.	:	File No. 11-EV-013315-Y)
	:	

**NOTICE OF AND PETITION FOR REMOVAL**

Comes now the City of Chattahoochee Hills, Georgia (“Chattahoochee Hills”), named as a defendant in connection with the above-referenced case, and shows this Court the following:

1.

On August 25, 2011, plaintiff herein Eric A. Johnson (hereafter “plaintiff”), filed a complaint in the State Court of Fulton County, State of Georgia, denominated as Civil Action File No. 11-EV-013315-Y and styled “*Eric A. Johnson, Plaintiff v. City of Chattahoochee Hills, Georgia, James D. Melton and Sidney A. Brown, Defendants.*” True and correct copies of all process, pleadings,

and Orders served upon this defendant in said civil action are attached hereto as Exhibit "A."

2.

The complaint seeks recovery of damages from all defendants for alleged violation of plaintiff's rights under the Constitution and laws of the United States pursuant to 42 U.S.C. § 1983.

3.

This Court has original jurisdiction of this civil action pursuant to 28 U.S.C. § 1331 inasmuch as plaintiff has asserted claims against all defendants arising under the Constitution and laws of the United States.

4.

This case is subject to removal pursuant to the provisions of 28 U.S.C. § 1441(b).

5.

Venue is proper in this Court pursuant to 28 U.S.C. § 1441(a).

6.

All served and non-served defendants herein consent to this removal.

7.

This petition is filed within thirty (30) days after receipt by this defendant, through service or otherwise, of the complaint setting forth the federal claims for relief upon which said action is based.

8.

This action is removable to this Court pursuant to the provisions of 28 U.S.C. §§ 1441(a) and (b), and 1446, *et. seq.*

Wherefore, Chattahoochee Hills prays that its petition be filed, that the entire action referred to hereinabove be removed to and proceed in the United States District Court for the Northern District of Georgia, Atlanta Division, that no further proceedings be held in the case originally filed in the State Court of Fulton County, State of Georgia, and that this defendant have such other and further relief as this Court deems just and proper in the circumstances.

Respectfully submitted, this 26th day of September, 2011.

/s/Harvey S. Gray

Harvey S. Gray

Georgia Bar No.: 305838

Matthew A. Ericksen

Georgia Bar No.: 304088

Attorneys for Chattahoochee Hills

**Gray, Rust, St. Amand, Moffett & Brieske, LLP**

1700 Atlanta Plaza

950 East Paces Ferry Road

Atlanta, Georgia 30326

(404) 870-7376 (Gray)

(404) 870-5955 (Ericksen)

(404) 870-7374 (Fax)

[hgray@grsmb.com](mailto:hgray@grsmb.com)

[mericksen@grsmb.com](mailto:mericksen@grsmb.com)

**CERTIFICATE OF COMPLIANCE**

I hereby certify, pursuant to Local Rule 7.1(D), that the foregoing **NOTICE OF AND PETITION FOR REMOVAL** has been prepared in accordance with Local Rule 5.1(C) (Times New Roman font, 14 point).

This 26th day of September, 2011.

/s/Harvey S. Gray

Harvey S. Gray

Georgia Bar No.: 305838

Matthew A. Ericksen

Georgia Bar No.: 304088

Attorneys for Chattahoochee Hills

**Gray, Rust, St. Amand, Moffett & Brieske, LLP**

1700 Atlanta Plaza

950 East Paces Ferry Road

Atlanta, Georgia 30326

(404) 870-7376 (Gray)

(404) 870-5955 (Ericksen)

(404) 870-7374 (Fax)

[hgray@grsmb.com](mailto:hgray@grsmb.com)

[mericksen@grsmb.com](mailto:mericksen@grsmb.com)

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

ERIC A. JOHNSON,	:	
	:	
Plaintiff,	:	
v.	:	CIVIL ACTION
	:	FILE NO. _____
CITY OF CHATTAHOOCHEE	:	
HILLS, GEORGIA; JAMES D.	:	
MELTON; and SIDNEY A.	:	
BROWN,	:	
	:	(State Court Civil Action
Defendants.	:	File No. 11-EV-013315-Y)
	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the foregoing **Notice of and Petition for Removal** upon all counsel of record via the Court's CM/ECF system and by depositing same in the United States mail in a properly addressed envelope with adequate postage thereon to insure delivery to:

William J. Atkins  
David B. Fife  
Atkins & Fife, LLC  
6400 Powers Ferry Road, Suite 355  
Atlanta, Georgia 30339

Mawuli M. Davis  
Robert O. Bozeman  
Davis Bozeman Law Firm, P.C.  
4153 B Flat Shoals Parkway  
Suite 204  
Decatur, Georgia 30034

Richard A. Carothers  
Carothers & Mitchell, LLC  
1809 Buford Highway  
Buford, Georgia 30518

James R. Westbury, Jr.  
James R. Westbury, Jr., P.C.  
1012 Memorial Drive, Ste. 13  
Griffin, Georgia 30224

This 26<sup>th</sup> day of September, 2011.

/s/Harvey S. Gray  
Harvey S. Gray  
Georgia Bar No.: 305838  
Matthew A. Ericksen  
Georgia Bar No.: 304088  
Attorneys for Chattahoochee Hills

**Gray, Rust, St. Amand, Moffett & Brieske, LLP**

1700 Atlanta Plaza  
950 East Paces Ferry Road  
Atlanta, Georgia 30326  
(404) 870-7376 (Gray)  
(404) 870-5955 (Ericksen)  
(404) 870-7374 (Fax)

[hgray@grsmb.com](mailto:hgray@grsmb.com)  
[mericksen@grsmb.com](mailto:mericksen@grsmb.com)

I:\604\237-Johnson v. Chattahoochee Hills\Pleadings\Notice of and Petition for Removal- Johnson v. Chattahoochee.doc